

REMARKS

In an office action dated June 27, 2007 ("Office Action"), the finality of a previous rejection of all pending claims under Müller et al., WO 00/70897 ("Müller") was withdrawn. However, the Office Action set forth a new rejection of all pending claims (1-14, 16-28, 30-34, and 52-63) under 35 U.S.C. § 103(a), over Müller in view of Chen et al., US Patent No. 6,748,224 ("Chen"). Applicant respectfully submits that the Office is mistaken as to the teachings of Müller and that the addition of Chen does not cure the deficiencies.

In particular, Müller fails to distinguish between a normally provided basic channel report and a selectively provided enhanced channel report, as required in each of the pending claims. The Office Action arbitrarily classifies the channel report described in Müller as an "enhanced" channel report, and proffers Chen in an attempt to supply the "basic" channel report recited in the pending claims. Applicant does not dispute that some systems may provide more detailed channel reports than others. However, Applicant describes and claims a system in which basic channel reports, i.e., channel reports at least partially characterizing a downlink channel, are normally provided, while enhanced channel reports, i.e., channel reports providing a more detailed view of the downlink channel than the basic channel reports, are selectively provided, based on the satisfaction of certain conditions. Neither Müller nor Chen describes such a system. Combining Müller and Chen, each of which separately discusses channel reports, does not suggest such a system, as neither reference teaches or suggests selective deviations from a normal channel reporting scheme.

Furthermore, the current Office Action fails to recognize the significance of the "common feedback criterion" recited in each of the pending independent claims. Contrary to the assertions of the Office Action, Müller, in fact, does not disclose common feedback criterion. This missing feature is not supplied by Chen.

For these reasons, and in light of the below arguments as well as the arguments previously presented, the currently pending claims are novel and non-obvious over the cited reference. Reconsideration and allowance of the claims is respectfully requested.

“Basic” and “Enhanced” Channel Reports

Independent claim 1 of the present application recites a method in which “a mobile terminal normally provid[es] a basic channel report” and “selectively provid[es] an enhanced channel report” based on evaluating conditions in light of a common feedback criterion. Independent claim 21 recites “a transmitter operative to normally provide a basic channel report” and to “selectively transmit an enhanced channel report” based on a common feedback criterion. Finally, independent claim 52 recites a “plurality of basic channel reports transmitted from a plurality of mobile terminals” followed by a determination of a feedback criterion to control “which plurality of said plurality of mobile terminals subsequently transmit an enhanced channel report.” Thus, the claims clearly distinguish between a “basic” channel report, which is normally transmitted, and an “enhanced” channel report which is selectively transmitted.

Müller does not disclose a mobile terminal that normally transmits a basic channel report and selectively transmits an enhanced channel report. Rather, Müller discloses “event-based” reporting. (Müller, page 5, lines 1-10.) This is presented as an alternative to a system that includes mobile terminals that “periodically provide measurement reports to the radio network for a standard set of radio-related parameters.” (See Müller, p. 4, lines 6-18.) Thus, Müller discloses that prior art terminals are typically configured to periodically provide measurement reports for a standard set of conditions, and discloses that alternative terminals may be configured to only send reports based on certain triggering events. Thus, Müller distinguishes between one system, which utilizes periodic reporting of channels, and another system, in which

mobile terminals are configured to only report channel conditions in response to certain triggering events.

Müller does not contemplate a terminal that sends a certain type of report by default, i.e. “normally,” and a different type of report at other times. In fact, Müller teaches away from such a terminal. Müller is concerned that periodic reports consume too much radio bandwidth and battery power, and that such reports may often include redundant information. (Müller, p. 4, lines 7-17.) Thus, Müller’s system provides channel reports only upon the satisfaction of certain requirements. Müller does not disclose or even hint at a terminal that selectively determines whether to send a basic channel report or an enhanced channel report, as claimed in the present application.

The Office Action concedes that Müller does not disclose a mobile terminal that normally provides a basic channel report, but also asserts that Müller discloses “selectively providing an enhanced channel report.” The Office Action then alleges that Chen discloses a mobile terminal normally providing a basic channel report. (*Id.*) This rejection is improper. The Final Office Action is construing claim elements in isolation and out of context, rather than considering the claimed invention as a whole. (See MPEP 2141 (II), “When applying 35 U.S.C. 103, . . . [t]he claimed invention must be considered as a whole. . . .”, citing *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5 (Fed. Cir. 1986).)

When considered as a whole, the claimed invention clearly recites selectively transitioning from a normal operating mode, in which basic channel reports are provided, to a mode in which enhanced channel reports are instead provided, based on the satisfaction of certain criterion. These channel reports are enhanced in the sense that they provide a more detailed view of the downlink channel than basic reports. (See, e.g., claim 1.) In contrast, Müller discloses the providing of a single type of channel report. Chen also discloses the providing of only a single type of channel report, for a very narrow purpose, i.e., to support the

determination of a mobile terminal's position. Chen never suggests the normal providing of basic channel reports. More importantly, neither reference discloses a system that selectively switches from the normal provision of one type to the provision of another, nor does any combination of these references disclose such a system.

Furthermore, as explained above, Müller describes a system that is an alternative to systems that provide periodic channel reports, and thus clearly teaches away from such systems, as well as away from the present invention. There is no reason why a person skilled in the art would combine Chen with Müller to arrive at the claimed invention, particularly when Müller instructs against “normal” channel reporting. Rather, Müller teaches away from such a combination, and the combination proposed in the Office Action is improper, besides failing to show the selective transitioning between basic and enhanced channel reports.

“Common Feedback Criterion”

Each of the currently pending claims recites that a mobile terminal receives “at least one common feedback criterion” transmitted, in a broadcast fashion, to a “plurality of terminals.” In a Response to Office Action dated November 6, 2006 (“Applicant Response”), Applicant presented arguments explaining that Müller fails to disclose these features. Applicant repeated these arguments in a Response to Final Office Action filed June 11, 2007. Although the finality of the previous office action (the “Final Office Action”, dated April 19, 2007) has been withdrawn, the Patent Office has not responded directly to any of these arguments. Applicant maintains that these arguments are correct, and reiterates that Müller does not disclose the broadcast common feedback criteria. The current Office Action does not allege that Chen supplies this missing feature (and Chen does not).

The Applicant Response focused on the distinction between the common feedback criterion of the present application and the mobile-by-mobile approach presented by Müller. As

explained in the Applicant Response, the current application describes a “common feedback criterion broadcast to a plurality of mobile terminals,” while Müller discloses only a measurement control message sent to one mobile at a time.

No office action has responded directly to this distinction. The Final Office Action, at page 2, instead cited a single sentence from Müller: “[T]he idle mobile station monitors broadcast or other control channel(s) to measure received signal strength if received signal strength is the parameter that was previously identified in the measurement control message.” According to the Final Office Action, this demonstrates that “this is common/broadcast approach as required by the claim language.” This is clearly incorrect, as was argued in Applicant's previous response. In contrast, the current Office Action, at page 2, instead cites a paragraph in Muller that describes conventional broadcast control channels. Applicant does not dispute that broadcast control channels are well known. However, Applicant's claims require a common feedback criterion, which is broadcast to a plurality of mobile terminals and used to determine when an enhanced channel report should be provided instead of the normally provided basic channel report. This feature is neither disclosed nor suggested by Muller (or Chen).

Conclusion

As demonstrated above and in Applicant's prior responses, Müller does not disclose a common feedback criterion transmitted to a plurality of mobile terminals. Further, Müller does not disclose a mobile terminal that normally provides a basic channel report but selectively provides an enhanced channel report based on the common feedback criterion. As these features are required in each of the currently pending claims, Müller in no way discloses the claimed invention. Combining Müller with Chen does not cure these deficiencies.

It is thus respectfully urged that the present application is in condition for allowance.

Prompt notice to such effect is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'D.P. Homiller', is written over a horizontal line.

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